

## REMARKS

In view of the above amendments and following remarks, Applicant respectfully requests reconsideration and allowance of the above-identified application.

Claims 1, 2, 4, 5, 9 and 12-22 are now pending in this application, with Claims 1, 2, 4, 5, 9, 12 and 20-22 being independent. By this Amendment, Applicant has amended each of the independent claims.

Claims 1, 11, 12, 13-17 and 20-22 stand rejected under 35 U.S.C. § 103 over U.S. Patent No. 6,157,488 (Ishii) in view of U.S. Patent No. 5,048,925 (Gerritsen, et al.). Claims 2, 4, 5, 9 and 13-19 stand rejected under 35 U.S.C. § 103 over Ishii and Gerritsen, et al. in view of U.S. Patent No. 5,279,924 (Sakai, et al.). Applicant traverses these rejections.

Applicant again submits that the claims are allowable over the cited documents for the reasons set forth in the Amendment filed on December 16, 2003. Full consideration thereof is requested. In addition, Applicant submits that the amendments presented herein even further distinguish the present invention from the cited documents.

In particular, the independent claims now recite that the grating thicknesses of two neighboring diffractive gratings, which confront each other across a space having a refractive index of 1, differ from each other. Support for this feature may be found in, at least, Figures 5 and 9, with respect to distances d1 and d2.

Ishii shows a diffractive optical element in which diffractive gratings (e.g., optical regions 11, 12 and 13 in Figure 6) are stacked on top of each other. In addition, at column 3, lines 65-67, that patent states that the different optical regions are arranged in contact with each other, or close to each other. Applicant submits that, in order to be able

to be arranged as suggested, the different diffraction gratings positioned adjacent to each other would have the same grating thickness. Thus, Ishii does not disclose diffractive gratings of different thicknesses confronting each other as claimed in the present application.

Applicant also submits that Gerritsen, et al. and Sakai, et al. fail to remedy the deficiency discussed above with respect to Ishii.

Accordingly, in addition to the reasons set forth in the Amendment filed December 16, 2003, Applicant submits that Ishii, Gerritsen, et al. and Sakai, et al., taken alone or in combination, fail to disclose or suggest at least the features of a pair of diffractive gratings differing in both grating thickness and dispersion from each other, with the pair of diffractive gratings confronting each other through a space of a refractive index of 1, as recited in independent Claims 1, 2, 4, 5, 9 and 12. In addition, Applicant submits that those documents, taken alone or in combination, fail to disclose or suggest at least the features of a diffractive grating portion having two diffractive grating layers laminated with a space of a refractive index of 1, with the two diffractive grating layers differing in dispersion from each other, and each diffractive grating being provided on the two diffractive grating layers differing in grating thickness, as recited in independent Claims 20-22.

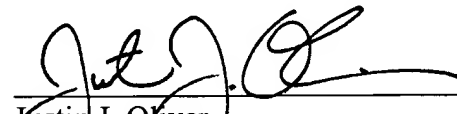
For the foregoing reasons, Applicant submits that the independent claims are allowable over the applied documents, and requests withdrawal of the rejections under 35 U.S.C. § 103.

The remaining claims in the present application are dependent claims which depend from the independent claims, and thus are patentable over the applied documents

for reasons noted above with respect to those claims. In addition, each recites features of the invention still further distinguishing it from the applied patents. Applicant requests favorable and independent consideration thereof.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
Justin J. Oliver  
Attorney for Applicant  
Registration No. 44,986

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

JJO/tmm